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(iv) have been rendered incapable of growing in the body of a human upon injection therein; and

(b) an adjuvant
thereby eliciting at least one of the following: tumor regression and prolongation of survival.

REMARKS

Applicant thanks the Examiner for the courtesy of an interview granted April 16, 1998.

Reconsideration of this application is respectfully requested. By the present amendment, claims 2, 22, 24, 25, 36, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48 are amended. The amendment is responsive to various rejections of the claims under 35 U.S.C. §112, 1st and 2nd ¶¶, for containing the language "substantially in a no growth phase," "syngeneic" and "hapteneized." These terms/phrase have been replaced by the following language --rendered incapable of growing in the body of a human upon injection-- (supported at e.g. page 12, lines 21-22 of the specification); --autologous-- (supported at e.g. page 12, line 2); and --conjugated to a haptene-- (supported e.g. at page 16, lines 8-10). The phrases "having the property" and "disrupted tumor cells" and the terms "plurality" have been eliminated. Entry of this amendment was indicated at the interview of April 16, 1998.

To advance the prosecution of this application, Applicant has replaced the term "syngeneic" by the term "autologous" which Applicant understands the Examiner prefers and

finds is supported by the specification. The Examiner stated in the November 3, 1997 Office Action that the prior art rejections were withdrawn at least in part because the claims were amended to recite "syngeneic" tumor cells. The withdrawn rejection does not apply to "autologous" for the same reasons it does not apply to "syngeneic". Additionally, the Examiner is directed to the arguments presented in detail in the Amendment filed August 4, 1997.

To summarize, the following art rejections were previously withdrawn:

1. The rejection under 35 U.S.C. §102(a) and §103 over Murphy *et al.*, *Lab. Investigation*, 1990 62(1)70A.

It is submitted that the withdrawal of this rejection is appropriate since Murphy is not available as a reference. A Declaration of Dr. David Berd under 37 C.F.R. §1.132 was filed with the Response mailed August 4, 1997. Furthermore, with respect to melanoma in particular, Murphy does not disclose nor suggest eliciting a DTH or other inflammatory response, much less prolongation of survival or repetition of treatment. With respect to other cancers, Murphy does not disclose or suggest any compositions or methods for treating cancer other than melanoma as called for in claims 43 and 44. Accordingly, claims 43 and 44 are independently patentable.

2. The rejection under 35 U.S.C. §102 over Berd *et al.*, *Proc. Am. Assoc. Cancer Res.*, 1989, 30, 382.

It is submitted that the withdrawal of this rejection is proper based on the remarks in the Amendment mailed August 7, 1997, pp. 19-22. These remarks did not depend on the word "syngeneic" in the claims. The Berd abstract did not enable or make obvious a successful treatment as claimed, and therefore the rejection was properly withdrawn for the reasons previously given.

3. The rejection under 35 U.S.C. §103 rejection over Berd *et al.*, *Proc. Am. Assoc. Cancer Res.*, 1989, 30, 382 in view of Geczy *et al.*, *Immunology*, 1970, 19, 189.

It is submitted that the withdrawal of this rejection is proper based on the remarks in the Amendment mailed August 7, 1997, pp. 22-24. As explained there, Geczy adds nothing to Berd which would make the invention obvious. With respect to claims 43 and 44 in particular, the cited references are irrelevant since neither claim 43 nor claim 44 encompass melanoma. No reference of record disclose or suggest treatment of any cancers other than melanoma.

In view of the amendments to the pending claims and the above remarks,
reconsideration of this application is respectfully requested and a favorable determination is
solicited.

Respectfully submitted,



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